June 11, 2019
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552


By electronic submission to http://www.regulations.gov

Dear Director Kraninger:

Thank you for this opportunity to comment on the Consumer Financial Protection Bureau’s (CFPB’s) proposal to amend Regulation C to increase the reporting threshold under the Home Mortgage Disclosure Act (HMDA). We are researchers in the Housing Finance Policy Center at the Urban Institute, and we frequently use HMDA data. Our biographies can be found at https://www.urban.org/policy-centers/housing-finance-policy-center/researchers. In 2014, we and our colleagues submitted extensive comments on the CFPB’s comprehensive proposed update of Regulation C. We are concerned about the CFPB’s current proposal to reverse some important decisions made as a result of that earlier process. As is Urban’s policy, these comments are our own and should not be attributed to the Urban Institute, its trustees, or its funders.

In 2010, Congress—responding to the housing bubble and resulting bust—amended HMDA as part of the Dodd-Frank Act to substantially increase the amount of information mortgage lenders are required to report. In 2015, the CFPB, after a long and thorough notice and comment process, implemented the 2010 law (hereafter, the “2015 rule”). Among the balanced decisions the CFPB made in the 2015 rule was one to unify the reporting threshold for depository and nondepository institutions at 25 closed-end loans per year, exempting 1,400 small depository institutions from reporting.¹

¹ See Home Mortgage Disclosure (Regulation C), 80 Fed Reg. 66275 (October 28, 2015). In 2018, Congress enacted the Economic Growth, Regulatory Relief, and Consumer Protection Act, exempting depository institutions that originate fewer than 500 closed-end loans each year from a significant portion of the new information required by Dodd-Frank, as implemented by the CFPB in the 2015 rule—a law that the notice of proposed rulemaking would fully implement. Thus, institutions that originate between the threshold number and 500 loans have already been relieved of a significant portion of the potential burden of the 2015 rule. We have previously written about the negative impact this will have on how well regulators and the public can understand the mortgage market, especially in the Midwest and with respect to manufactured housing.
On May 13, 2019, in a notice of proposed rulemaking (NPRM), the CFPB proposed, with a short 30-day comment period, to raise that threshold to either 50 or 100 closed-end loans. Increasing the threshold from 25 to 50 loans would materially affect the amount of information available to the marketplace, and increasing it to 100 loans would exacerbate the problem exponentially. We strongly recommend that the CFPB retain the 25-loan threshold and that the threshold should not be increased to more than 50 loans. In a recent blog post, we raised our concerns, and we have done some new work that amplifies those concerns.

Quantifying the Effect on Lending within Census Tracts

The NPRM showed the number of census tracts that would lose reporting on more than 20 percent of their mortgages if the closed-end threshold were increased to 50 or 100 loans. The NPRM does not provide information on potential losses of fewer than 20 percent of loans. To help the CFPB make a more informed decision on the choice among retaining the current 25-loan threshold, or increasing it to 50 or 100 loans, we have supplemented the CFPB’s results in table 1. The table shows the impact of reporting thresholds of 50 and 100 loans on the share of census tracts where loan reporting will be lost compared with the current 25-loan threshold. We show the share of tracts that will lose reporting on at least 5 percent of their loans and, separately, the share that will lose at least 10 percent and at least 20 percent of their loans. We also show the share of tracts that will lose reporting on at least one loan under the two proposed thresholds.

The results demonstrate how incomplete the 20 percent analysis is in evaluating the impact of a higher loan reporting threshold on the ability of both regulators and the public to understand what is happening in the mortgage market.

For example, at a 100-loan threshold, the NPRM shows that 1.5 percent of tracts would lose reporting on 20 percent or more of their loans. Using the 2017 data available to us, we calculated this number as 1.26 percent. But when we calculated the share of tracts that will lose at least 10 percent or at least 5 percent of their loans with a 100-loan threshold, we see a larger impact of 4.09 and 10.54 percent of tracts, respectively. Our calculations also show that 50.86 percent of all census tracts will lose reporting on at least one loan with the 100-loan threshold and 24.2 percent of tracts will lose reporting on at least one loan at the 50-loan threshold.

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2 We could not precisely replicate the CFPB’s calculations for two reasons. First, the CFPB used 2016 HMDA data, 2017 HMDA data, and other sources, and we used only 2017 HMDA data. Second, the CFPB has a proprietary database, while we have access only to public data, which contain some loans that do not have a census tract designation. Because of the data differences, we show a somewhat smaller impact for the 100-loan threshold at 20 percent of loans lost.
TABLE 1
Share of Census Tracts That Will Lose 5, 10, and 20 Percent of Loan Reports

<table>
<thead>
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<th>50-Loan Threshold</th>
<th>100-Loan Threshold</th>
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<tbody>
<tr>
<td></td>
<td>Share of tracts that will</td>
<td>Share of tracts that will</td>
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<tr>
<td></td>
<td>lose reports on at least</td>
<td>lose reports on at least</td>
</tr>
<tr>
<td></td>
<td>1 loan</td>
<td>5% of loans</td>
</tr>
<tr>
<td>All census tracts (%)</td>
<td>24.20</td>
<td>2.87</td>
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<tr>
<td>Rural tracts (%)</td>
<td>26.84</td>
<td>3.47</td>
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<tr>
<td>Urban tracts (%)</td>
<td>24.22</td>
<td>2.33</td>
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<tr>
<td>LMI tracts (%)</td>
<td>19.53</td>
<td>4.63</td>
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<tr>
<td>Single-family (%)</td>
<td>23.80</td>
<td>2.39</td>
</tr>
<tr>
<td>Multifamily (%)</td>
<td>7.01</td>
<td>7.00</td>
</tr>
</tbody>
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Source: Authors’ calculations using 2017 Home Mortgage Disclosure Act data.
Note: LMI = low- and moderate-income.

According to our calculations, 2.87 percent of census tracts would lose reports on more than 5 percent of their loans if the threshold increases from 25 to 50 loans. If the 100-loan threshold is used, the number would increase to 10.54 percent, more than three times the impact of the 50-loan threshold. And it is important to remember that the reporting threshold is already at 25 loans, not 1 loan. In other words, the proposal would generate significant incremental losses of loan reporting, above those already imbedded in the 2015 rule.

Moreover, the information loss is not evenly distributed across census tracts. The losses are disproportionately concentrated in rural census tracts (table 1). At the 50-loan threshold, 3.47 percent of tracts in rural areas would lose reporting on 5 percent or more of the loans made in those tracts, compared with 2.33 percent of tracts in urban areas. And once again, the impact of a potential increase to a 100-loan threshold is not simply arithmetic. If the threshold were increased to 100 loans, 14.15 percent of the rural census tracts would lose reporting of more than 5 percent of their loans, as would 8.87 percent of urban tracts.

Similarly, the number of low- and moderate-income (LMI) tracts that would be affected by the change in the threshold is about twice as large as the number of overall tracts affected. Thus, any change in the threshold would cause the loss of much valuable information in important markets at a time when the country has an acute shortage of affordable housing. For example, at a 50-loan threshold, 4.63 percent of the LMI tracts could lose reporting on 5 percent of their loans. But at the 100-loan threshold, 14.18 percent of LMI tracts would lose reporting on at least 5 percent of their loans—more than three times as many as at the 50-loan threshold.

Finally, the impact of any change in the threshold is more severe for multifamily loans. Our research has demonstrated how important multifamily loans are to the effectiveness of the Community Reinvestment Act—information we could obtain only by using HMDA data. Without HMDA data on multifamily lending, the state of the market—especially for nonluxury lending—is virtually dark to anyone attempting to study it. While at a 50-loan threshold, 0.21 percent of census tracts would lose reporting on 20 percent or more single-family loans, 6.34 percent of census tracts would lose reporting on 20 percent or more multifamily loans, a difference of roughly 29 times \( \frac{(6.34 - 0.21)}{0.21} \).
The situation would be more severe if the threshold were set at 100 loans. The share of census tracts losing reporting on 20 percent or more multifamily loans jumps from 6.34 percent at the 50-loan threshold to 14.76 percent at the 100-loan threshold, a little more than double the impact. Even more dramatically, at the 100-loan threshold, reporting on fully 10 percent of multifamily loans (not census tracts) would be lost, as would 4.4 percent of multifamily loans at the 50-loan threshold. This demonstrates not only the importance of these data to understanding multifamily lending but the disproportionate impact of a higher threshold on multifamily loans.

Cost-Benefit Analysis

The CFPB’s own estimates indicate that if the threshold were to be increased to 50 loans, 759 low-volume depository and nondepository institutions would not have to report, at an average annual cost savings of less than $2,900 per institution. Compare this with the average net income of more than $594,000 per institution with less than $100 million in assets in 2018. If the threshold were increased to 100 loans, 1,718 low-volume institutions would not have to report, at an average annual cost savings of more than $4,700 per institution, still insignificant compared with net income.

The CFPB has not demonstrated that its current 25 closed-end loan threshold should be changed, given the loss of information generated by a statute designed to provide disclosure of information about a critical market, and the modest cost savings that would accrue to institutions (not consumers) from the proposed changes. But if there is going to be an increased reporting threshold, moving to a 50-loan threshold is more than sufficient. Increasing to a 100-loan threshold would exempt from reporting more than 34 percent of the current reporters. That is not disclosure. That is a large information vacuum, particularly in rural areas, in LMI areas, and with respect to multifamily loans.

We appreciate the opportunity to comment on this.

Sincerely,
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